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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA,) No.: CR 08-0443 MMC
15 Plaintiff,)
16 v.)
17 EARL HARRELL SIMS II,)
18)
19 Defendant.)
20

**STIPULATION AND [PROPOSED]
ORDER EXCLUDING TIME**

21 On December 24, 2008, the parties in this case appeared before the Court for
22 identification of counsel. The parties stipulated and the Court agreed that time should be
23 excluded from the Speedy Trial Act calculations from December 24, 2008, through January 14,
24 2009, for effective preparation of defense counsel. The parties represented that granting the
25 continuance was the reasonable time necessary for effective preparation of defense counsel,
26 taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(8)(B)(iv). The parties
27 also agreed that the ends of justice served by granting such a continuance outweighed the best
28 //

STIP. & [PROPOSED] ORDER EXCLUDING TIME
CASE NO. CR08-0443 MMC

1 interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(8)(A).

2 SO STIPULATED:

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4 JOSEPH P. RUSSONIELLO
United States Attorney
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6 DATED: December 29, 2008

7 /s/
OWEN P. MARTIKAN
Assistant United States Attorney
8

LAW OFFICES OF STEVEN SHAIKEN

9 DATED: December 29, 2008

10 /s/
STEVEN SHAIKEN
Attorney for Defendant Earl Harrell Sims II
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12 ~~[PROPOSED]~~ ORDER

13 As the Court found on December 24, 2008, and for the reasons stated above, an exclusion
14 of time from December 24, 2008, through January 14, 2009, is warranted because the ends of
15 justice served by the continuance outweigh the best interests of the public and the defendant in a
16 speedy trial. *See* 18 U.S.C. §3161 (h)(8)(A). The failure to grant the requested continuance
17 would deny defense counsel the reasonable time necessary for effective preparation, taking into
18 account the exercise of due diligence, and would result in a miscarriage of justice. *See* 18 U.S.C.
19 §3161(h)(8)(B)(iv).

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21 SO ORDERED.

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24 DATED: 12/30/08



25 HON. JAMES LARSON EDWARD M. CHEN
United States Magistrate Judge
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